

REMARKS

In view of the following remarks responsive to the Second Non-Final Office Action in this case dated June 3, 2004, Applicant respectfully requests favorable reconsideration of this application.

Applicant respectfully thanks the Office for the indication that the proposed drawing corrections filed on March 17, 2004 are approved. Applicant has submitted formal drawings to the Official Draftsperson reflecting those drawing changes.

Applicant further respectfully thanks the Office for the indication that claims 3-9, 11-16, 19-25, and 27-32 are merely objected as being dependent upon a rejected base claim, but are otherwise allowable.

The Office has rejected only claims 1, 2, 10, 17, 18, and 26. Particularly, the Office rejected claims 1 and 17 under 35 U.S.C. §103(a) as unpatentable over Morrison in view of Takase; claims 2 and 18 under 35 U.S.C. §103(a) as unpatentable over Morrison in view of Takase and further in view of Kim; and claims 10 and 26 under 35 §103(a) as unpatentable over Morrison in view of Takase and further in view of Szentesi.

Applicant acknowledges the Office's statement in Section 7 of the Office Action that Applicant's previous arguments are moot in view of the new grounds of rejection. However, a brief recap of the previous rejections and Applicant's response thereto is in order.

In short, the Office previously rejected the main claims over Morrison taken alone or as the primary reference. Applicant traversed those rejections because, contrary to the Office's assertions, Morrison did not teach steps 2 and 3 of claim 1 (of the substantively similar limitations in the other independent claim, claim 17). Particularly, Morrison did not teach step 2, "determining a number of additional channels needed to cause said traffic through said pipeline to not exceed said predetermined threshold", or step 3, assigning an amount of corrective action "as a function of said number of additional channels." Even more particularly, instead of calculating the number of extra channels, D, needed

to accommodate the traffic in the VTG, as in the present invention, Morrison used call blocking ratios to determine congestion, and, if there is congestion, "a new set of virtual path routings and capacity allocations are generated based on the blocking probabilities and the network sensitivities determined in step 20". This clearly is not based on the number of channels, B, as in the present invention.

The Office has, therefore, withdrawn those rejections.

In the new set of rejections, the Office has added the Takase reference to cure the lack of teaching of steps 2 and 3 of claim 1 in Morrison. Particularly, the Office now asserts that Takase discloses steps 2 and 3 of claim 1 at column 7, lines 37-55 and column 22, lines 17-28. The Office also asserts that one skilled in the art would have recognized determining the number of additional channels needed to cause said traffic through said pipeline to not exceed said predetermined threshold to use the teachings of Takase in the system of Morrison. The Office further asserted that it would have been obvious to use the determining a number of additional channels needed to cause said traffic through said pipeline to not exceed said predetermined threshold as taught by Takase in Morrison's system with the motivation being used the usual call setting procedure so that there is no need of the addition of a new facility to a switching unit.

Applicant respectfully traverses. Takase does not teach steps 2 and 3 of claim 1. Particularly, column 7, lines 37-60 and column 22, lines 17-31 of Takase are reproduced below for ease of reference.

In the sixth invention, a connectionless communication server constituting the routing control means 38 detects the number of messages transferred over a virtual channel connected to another server on the basis of the number of message identifiers MIDs. The detection is made by incrementing a message counter at the time of entry of a cell in which the previously-described BOM has been placed as a segment type and decrementing it at the time of entry of a cell in which the EOM has been placed.

Subsequently, the number of messages detected is compared with a threshold. When the threshold is exceeded, the above-described switching control means 40 increases the number of virtual channels to be established between servers. When the number of messages detected is

smaller than the threshold, on the other hand, the control means 40 decreases the number of the virtual channels.

In increasing or decreasing the number of the virtual channels, the usual call setting procedure is used. Therefore, there is no need of addition of a new facility to a switching unit. Thereby, a maximum number of messages that can be simultaneously communicated between servers is made variable. Varying the number of the virtual channels may dynamically be performed during communication by using hardware or may be performed over a middle or long period of time by using software. (Col. 7, lines 37-60).

When the threshold value 165a is exceeded by the message count, the comparator 165c will issue a request to set a virtual channel to the switch controller 163. When the message count becomes smaller than the threshold value 165b, the comparator 165d will issue a request to release a virtual channel to the switch controller 163.

The VCI addition/deletion section 166 is constructed from a VCI addition instructing section 166a which is responsive to the virtual channel set request from the comparator 165c in the threshold comparing section 165 to instruct the exchange to add VCI, and a VCI release instructing section 166b which is responsive to the release request from the comparator 165d to instruct the exchange to release the virtual channel. Col. 22, lines 17-31).

Thus, as described in these sections, in Takase, a threshold is set. The threshold is a message count. When the threshold is exceeded, the control means 40 increases the number of virtual pipelines between servers by one,

This is nothing like what is described in step 2 of claim 1. Contrary to the Office's assertions, Takase does not determine a number of additional channels needed to cause said traffic through said pipeline to not exceed said predetermined threshold. Like Morrison, Takase completely skips step 2. Takase determines when a threshold is exceeded and takes corrective action, but there is no determination of a number of additional channels needed to cause said traffic through said pipeline to not exceed the predetermined threshold. Instead, Takase merely increases the number of channels by one. This is a completely different system from the present invention.

Since neither Morrison nor Takase teach at least step 2 of claim 1, the proposed combination of Morrison and Takase does teach all of the elements of

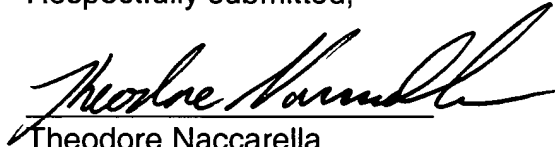
the claim. Accordingly, claim 1 patentably distinguishes over the prior art of record.

Claim 17 includes essentially the same distinguishing limitation as claim 1.

The remaining rejected claims, claims 2, 10, 18 and 26, depend from either claim 1 or claim 17 and, therefore, distinguish over the prior art of record for the reasons given above in connection with claims 1 and 17.

In view of the foregoing remarks, this application is now in condition for allowance. Applicant respectfully requests the Examiner to issue a Notice of Allowance at the earliest possible date. The Examiner is invited to contact Applicant's undersigned counsel by telephone call in order to further the prosecution of this case in any way.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Theodore Naccarella', written over a horizontal line.

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